

In the Court of Appeals of the State of Alaska

Basil Backford,

Appellant,

v.

State of Alaska,

Appellee.

Court of Appeals No. **A-12995**

Order

Date of Order: **July 28, 2020**

Trial Court Case No. **3DI-15-00307CR**

The Appellant, Basil J. Backford, was recently allowed to represent himself in this appeal. Mr. Backford's previous court-appointed attorney has already filed Mr. Backford's opening brief. Mr. Backford has now filed a motion asking this Court to allow him to withdraw the opening brief his attorney filed. Mr. Backford has also alleged that the trial court record is inaccurate, and requests the Court stay this appeal and remand the case to allow the superior court, if necessary, to reconstruct the trial court record.

The State does not oppose the request to withdraw the Appellant's opening brief, but does oppose the request to stay and remand this case to the superior court. Regarding the request to stay and remand, the State argues that Mr. Backford has not adequately shown that the trial court record (and as a result, the appellate record) is not accurate.

Under Appellate Rule 210(i), however, if a difference arises whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to that court's decision. In other words, the superior court must make factual findings to resolve Mr. Backford's allegation that the trial record is inaccurate.

IT IS ORDERED:

Backford v. State -p.2
Order
July 28, 2020

1. The motion to withdraw the Appellant's opening brief is **GRANTED**.
2. The motion to stay this appeal and to remand this case to the superior court is **GRANTED**. The superior court shall make appropriate findings as to whether the record accurately represents what occurred in the trial court, shall settle any disagreement regarding the record, and shall conform the record in accordance with the superior court's decision.
3. The superior court's report on this matter shall be provided to this Court on or before **September 30, 2020**. At the request of the superior court, this deadline may be extended if necessary. In remanding this case, this Court acknowledges that under limitations imposed because of the current public health crisis, this hearing should be done telephonically if possible. If the hearing cannot be done telephonically, then the superior court shall inform this Court of this circumstance as soon as possible.
4. The State's due date for its brief is **VACATED**. Upon receipt of the superior court's report, the Clerk's Office shall issue a Notice of the new due date for Mr. Backford's Opening brief.

Entered under the authority of Chief Judge Allard.

Clerk of the Appellate Courts



Carly Williams, Deputy Clerk

cc: Court of Appeals Judges
Judge Reigh
Distribution:

Mail:
Backford, Basil

Email:
Chleborad, Terisia K.